

§ 4022.22

29 CFR Ch. XL (7–1–10 Edition)

plan does not provide a straight life annuity either as its normal form of retirement benefit or as an option to the normal form, the PBGC will for purposes of this paragraph convert the plan's normal form benefit to a straight life annuity of equal actuarial value as determined by the PBGC.

(2) The limitation of paragraph (a)(1) of this section shall not apply to:

(i) A survivor's benefit payable as an annuity on account of the death of a participant that occurred on or before the plan's termination date and before the participant retired;

(ii) A disability pension described in § 4022.6 of this part; or

(iii) A benefit payable in non-level installments that in combination with Social Security, Railroad Retirement, or workman's compensation benefits yields a substantially level income if the projected income from the plan benefit over the expected life of the recipient does not exceed the value of the straight life annuity described in paragraph (a)(1) of this section.

(b) The PBGC will not guarantee the payment of that part of any benefit that exceeds the limitations in section 4022(b) of ERISA and this subpart B.

(c)(1) Except as provided in paragraph (c)(2) of this section, the PBGC does not guarantee a benefit payable in a single installment (or substantially so) upon the death of a participant or his surviving beneficiary unless that benefit is substantially derived from a reduction in the pension benefit payable to the participant or surviving beneficiary.

(2) Paragraphs (a) and (c)(1) of this section do not apply to that portion of accumulated mandatory employee contributions payable under a plan upon the death of a participant, and such a benefit is a pension benefit for purposes of this part.

(d) The PBGC will not guarantee a joint-life annuity benefit payable to other than—

(1) Natural persons; or

(2) A trust or estate for the benefit of one or more natural persons.

[61 FR 34028, July 1, 1996, as amended at 67 FR 16956, Apr. 8, 2002]

§ 4022.22 Maximum guaranteeable benefit.

Subject to section 4022B of ERISA and part 4022B of this chapter, benefits payable with respect to a participant under a plan shall be guaranteed only to the extent that such benefits do not exceed the actuarial value of a benefit in the form of a life annuity payable in monthly installments, commencing at age 65 equal to the lesser of the amounts computed in paragraphs (a) and (b) of this section.

(a) One-twelfth of the participant's average annual gross income from his employer during either his highest-paid five consecutive calendar years in which he was an active participant under the plan, or if he was not an active participant throughout the entire such period, the lesser number of calendar years within that period in which he was an active participant under the plan.

(1) As used in this paragraph, "gross income" means "earned income" as defined in section 911(b) of the Code, determined without regard to any community property laws.

(2) For the purposes of this paragraph, if the plan is one to which more than one employer contributes, and during any calendar year the participant received gross income from more than one such contributing employer, then the amounts so received shall be aggregated in determining the participant's gross income for the calendar year.

(b) \$750 multiplied by the fraction $x/13,200$ where "x" is the Social Security contribution and benefit base determined under section 230 of the Social Security Act in effect at the termination date of the plan.

§ 4022.23 Computation of maximum guaranteeable benefits.

(a) *General.* Where a benefit is payable in any manner other than as a monthly benefit payable for life commencing at age 65, the maximum guaranteeable monthly amount of such benefit shall be computed by applying the applicable factor or factors set forth in paragraphs (c)–(e) of this section to the monthly amount computed under § 4022.22. In the case of a step-down life annuity, the maximum